IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 292 of 2003

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

CHHAYABEN BHIKHUBHAI GAMIT

Versus

PRINCIPAL

Appearance:

MR DIPAK R DAVE for Petitioner No. 1-4

MR PD BHATE, AGP, for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 31/08/2004

ORAL JUDGEMENT

1.0 In this petition the petitioners have challenged the common judgement and award dated 23rd January 2001 whereby the Labour Court rejected the references.

2.0 The case of the petitioners is that they were working with the respondent school and the Principal of respondent school has illegally terminated the services of the petitioners on different dates. The petitioners therefore raised industrial dispute and the reference of the petitioners came to be referred to the Labour Court, Surat for adjudication. The references were numbered as Reference (LCS) Nos.442/90, 443/90, 482/90, 483/90 and 484/90. The references were consolidated and were heard together. The Labour Court, Surat, by judgement and award dated 23rd January 2001, rejected the references. It is against the said order the present petition has been filed.

3.0 I have heard the learned counsel for the respective parties and perused the relevant documents on record.

4.0 Admittedly the petitioners were appointed as daily wagers for temporary period. They were appointed for fixed period and for fixed purpose. Apart from that, from the record it appears that the petitioners were appointed irregularly and therefore they could not have been granted reinstatement with backwages. No illegality is pointed out by the learned counsel for the petitioners and therefore no interference is called for in the present petition.

5.0 Learned counsel for the petitioner contended that after the retrenchment of the petitioners certain daily wagers were kept and therefore there is violation of sections 25G and 25H of the Industrial Disputes Act, 1947. In this context I find substance in the contention of the learned counsel for the petitioners. In fact this question was not considered by the Labour Court. Therefore, I find it appropriate to remand the matter to the Labour Court for deciding the aforesaid limited question.

6.0 Accordingly, the petition is partly allowed. The common judgement and order of the Labour Court is confirmed, but the matter is remanded to the Labour Court only for the purpose of deciding the question regarding violation of provisions of section 25G and 25H of the Act. It will be open for the parties to adduce evidence qua the aforesaid question. It is clarified that the Labour Court is not required to decide any other question. Rule is made absolute to the aforesaid extent with no order as to costs.

[K.S.JHAVERI, J.]

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